

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

LAWRENCE L. HANKINS,
Petitioner,

v.

K. SIEBEL, Warden,
Respondent.

Case No. CV 15-2564 BRO (JCG)

**ORDER SUMMARILY DISMISSING
ACTION WITHOUT PREJUDICE AND
DENYING CERTIFICATE OF
APPEALABILITY**

On April 7, 2015, petitioner Lawrence L. Hankins (“Petitioner”), a California prisoner proceeding *pro se*, filed a Petition for Writ of Habeas Corpus (“Petition”). [Dkt. No. 1.] Notably, it is his second federal petition challenging a 1996 state court judgment of conviction and sentence. [See *id.* at 10.] Thus, the Court finds that the Petition is an unauthorized “second or successive” petition, and summarily dismisses this action without prejudice for lack of jurisdiction. See 28 U.S.C. 2244(b).

By way of background, Petitioner first challenged his conviction and sentence in 1998 (“1998 Petition”). [Dkt. No. 1 at 10.] The 1998 Petition was denied. [See C.D. Cal. Case No. CV 98-6901 WMB (VAP), Dkt. Nos. 15, 17, 18.]

Now, in the instant Petition, Petitioner seeks to challenge the *same* 1996 judgment of conviction and sentence. (Pet. at 2.) However, Petitioner has failed to

1 obtain the Ninth Circuit’s authorization to file a “second or successive” petition. *See*
2 28 U.S.C. 2244(b). Petitioner contends that the Ninth Circuit’s authorization is not
3 required because he “is only challenging the sentence and not the conviction”
4 [Dkt. No. 1 at 6-7.] However, Petitioner misstates the relevant inquiry, which is
5 whether the Petition seeks to challenge the same *judgment* of conviction and sentence
6 as the previous federal habeas petition.¹ *See Burton v. Stewart*, 549 U.S. 147, 156-57
7 (2007) (holding that a “judgment” challenged under 28 U.S.C. § 2254 comprises a
8 state court conviction and sentence).

9 Thus, because the Petition challenges the same judgment of conviction and
10 sentence as the 1998 Petition, it is an unauthorized “second or successive” petition.
11 *See id.*; 28 U.S.C. § 2244(b).

12 Accordingly, the Court must dismiss this action for lack of jurisdiction. *See id.*

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27 ¹ Moreover, Petitioner mischaracterizes his 1998 Petition, which also challenged his sentence.
28 [See C.D. Cal. Case No. CV 98-6901 WMB (VAP), Dkt. No. 15, at 9-20.]

1 For the foregoing reasons, **IT IS ORDERED THAT** this action be
2 **SUMMARILY DISMISSED WITHOUT PREJUDICE** for lack of jurisdiction,
3 pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States
4 District Courts.

5 **IT IS FURTHER ORDERED** that a certificate of appealability be DENIED
6 because Petitioner has not shown that jurists of reason would find it debatable whether
7 this Court was correct in its procedural ruling. *See Slack v. McDaniel*, 529 U.S. 473,
8 484 (2000).

9 **LET JUDGMENT BE ENTERED ACCORDINGLY.**

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12 Dated: April 17, 2015

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14 HONORABLE BEVERLY REID O'CONNELL
15 UNITED STATES DISTRICT COURT JUDGE
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